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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 CECELIA LINARES, on behalf of herself
12 and all other similarly situated California
residents,

13 Plaintiff,

14 vs.

15 COSTCO WHOLESALE, INC., a
Washington corporation,

16 Defendant.
17

CASE NO. 11-cv-2547-MMA (RBB)

**NOTICE AND ORDER
PROVIDING TENTATIVE
RULING REGARDING
DEFENDANT'S MOTION TO
DISMISS**

18 Currently pending before the Court is Defendant Costco Wholesale, Inc.'s motion to
19 dismiss Plaintiff Cecelia Linares' complaint pursuant to Federal Rules of Civil Procedure 8(a),
20 9(b), 12(b)(1) and 12(b)(6). [Doc. No. 8.] Having considered the submissions of the parties, the
21 motion is tentatively **GRANTED IN PART** and **DENIED IN PART**.

22 The Court tentatively **DISMISSES** Plaintiff's claims relating to Glucosamine with MSM
23 and advertisements she did not personally view **with prejudice**. The Court tentatively finds that
24 Plaintiff lacks standing to bring a claim regarding a product she did not purchase or use, and
25 advertising she did not view.

26 Furthermore, the Court tentatively finds that Federal Rule of Civil Procedure 9(b)'s
27 heightened pleading requirements do not apply to the present action because Plaintiff's claims do
28 not sound in fraud.

1 The Court also tentatively finds that Plaintiff's allegations regarding Glucosamine
2 Chondroitin are sufficient to satisfy Rule 8(a)'s pleading requirements.

3 Finally, the Court tentatively finds that the allegations in the First Amended Complaint do
4 not violate Rule 11(b)(3).

5 The Parties are advised that these rulings are tentative and the Court will entertain
6 additional argument at the hearing on March 26, 2012.

7 **IT IS SO ORDERED.**

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9 DATED: March 23, 2012

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11 Hon. Michael M. Anello
12 United States District Judge
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